

THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE: §  
§  
FRANK TITUS AVIGNONE § CASE NO. 14-41587-R  
XXX-XX-9679 §  
3504 FLINTSTONE DRIVE § CHAPTER 13  
PLANO, TX 75074 §  
§  
SARAH SIEG AVIGNONE §  
XXX-XX-4933 §  
DEBTORS §

MOTION TO DISMISS AND SETTING HEARING

**THE TRUSTEE REQUESTS THE COURT TO SET THIS MOTION FOR HEARING ON September 11, 2019, AT 10:00 am AS FOLLOWS:**

**Plano Bankruptcy Courtroom  
660 North Central Expressway  
Third Floor  
Plano, Texas 75074**

COMES NOW Carey D. Ebert, Chapter 13 Trustee, and files this Motion to Dismiss and Setting Hearing in the above numbered and styled proceeding, and for cause would show the Honorable Court as follows:

1. The Debtors have unreasonably delayed the case because the Debtors have failed to make Chapter 13 plan payments as required by 11 USC §1326(a)(1). As of August 12, 2019, the Debtors are in arrears in the amount of \$5,780.00.
2. Failure to perform this duty constitutes an unreasonable delay by the Debtors that is prejudicial to creditors under 11 USC §1307(c)(1) and amounts to a material default of a confirmed plan under 11 USC §1307(c)(6), and thus, cause exists for dismissal.

WHEREFORE, PREMISES CONSIDERED, Carey D. Ebert, Chapter 13 Trustee, prays that this case be dismissed for cause.

Respectfully submitted,

/s/ Carey D. Ebert  
Carey D. Ebert, Chapter 13 Trustee, TBN 05332500  
Office of the Standing Chapter 13 Trustee  
500 North Central Expressway, Suite 350  
Plano, Texas 75074  
(972) 943-2580

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion to Dismiss and Setting Hearing has been served upon the following parties in interest by mailing a copy of same to them via first class mail and uploaded to the Court for service by the Bankruptcy Noticing Center to the parties on the Court's mailing matrix on the date set forth below .

FRANK TITUS AVIGNONE  
SARAH SIEG AVIGNONE  
3504 FLINTSTONE DRIVE  
PLANO, TX 75074

PREVOST, SHAFF, MASON & CARNS, PLLC  
5560 TENNYSON PARKWAY  
SUITE 260  
PLANO, TX 75024

Dated: August 13, 2019

/s/ Carey D. Ebert

Office of the Standing Chapter 13 Trustee